

Planning & Zoning Commission Meeting  
Mid-Month Meeting Minutes of May 21, 2009  
1st Floor North Conference Room - City Hall

**Present:** Cindy Weeks, Vice-Chair, Presiding; Thomas Byers, Darryl Hart, Jerome Jones and Mark Sexton

**Absent:** Chairman Sizemore and Mr. Nathaniel Cannady

**Regular Meeting - 4:00 p.m.**

Vice-Chair Weeks called the meeting to order at 4:00 p.m. and informed the audience of the public hearing process.

**Administrative**

- ? Mr. Jones moved to approve the minutes of the April 23, 2009, meeting. This motion was seconded by Mr. Hart and carried unanimously by a 5-0 vote.

**Agenda Items**

**(1) Ordinance amending Chapter 7 of the Code of Ordinances regarding the response to the current economic climate**

Urban Planner Alan Glines said that this is the second effort to provide several amendments to the Unified Development Ordinance (UDO) for the purposes of responding to the current economic climate. This series of economic relief amendments is proposed to relax some non-life safety standards that affect businesses and smaller economic endeavors while still addressing public welfare and supporting city adopted goals.

The first phase of the economic relief amendments was brought before the Planning and Zoning Commission on February 19, 2009. In March 2009, Planning & Development staff presented to City Council a list of 8 UDO amendments designed to assist businesses during this economic downturn. At the time City Council supported this amendment as a starting point and directed staff to continue to review applicable ordinances for additional opportunities to provide relief and encourage economic opportunities for large and small scale commercial endeavors.

The current list is pulled from a review of the UDO and is also based on requests from the development / business community for specific relief from standards that may affect business or development opportunities. While offering relief is currently an important consideration, careful attention has been paid to impacts or consequences to relaxing standards that have been long held. The benefits and impacts are identified in a 'pros' and 'cons' section following each item.

Staff is proposing 7 separate code changes to assist enterprises facing difficulties and offer additional opportunities for small business ventures. The 7 changes are grouped together for purposes of this report although they are distinct in their directives and will therefore be described separately below. Each item will require a separate vote.

The proposed wording amendments are focused in four areas of the UDO:

- ? Threshold requirements that affect cumulative development (Article V)
- ? Design and development standards (Article XI)
- ? Sign regulations (Article XIII)
- ? Uses by right subject to special requirements (Article XVI)

The changes included in this report are the second set of changes as requested by Council. Staff continues to meet with neighborhood representatives, property owners, members of the business community and other stakeholders to consider these and other additional changes.

Mr. Glines then reviewed each change, using illustrations, while responding to questions/comments.

**1. Issue: Modify the distance criteria that require that projects be cumulatively combined for purposes of plan review submittal processes.**

**Current:** Development proposals that are within 1500 feet of each other and are permitted within three (3) years and are under the same ownership, are required to be combined and considered as a single development for the purposes of determining development review thresholds and criteria. This has required that somewhat separate and independent projects be combined and reviewed together in a fashion similar to multi-phased projects. This often results in a higher standard of review and, in some instances, can evolve into a Level III Conditional Use Permit application.

**Proposal:** The change would be to reduce the distance of projects from 1500 feet down to 500 feet and maintain the three (3) year time frame of the permit approval time period overlap.

**Relevant Code Sections:** 7-5-9(a)(1)b., 7-5-9(b)(1)b. and 7-5-9(c)(1)g.

**Pros:**

- ? Potentially reduces the permit review time for project applications
- ? Reduces the disincentive for successful developers (owners) to initiate new investment in proximity to earlier projects
- ? Maintains sufficient technical review of development proposals
- ? May reduce the number of conditional use permits (CUP)

**Cons:**

- ? May remove some incremental developments from coming before the public hearing process (limits public input)
- ? Reduces the ability to mitigate the impacts of incremental development(s) by holding them to a higher standard

**2. Issue: Reduce the width of the access way at the street (flagpole) from 25 feet to 20 feet for flag lots in order to match the requirement for alternative access subdivisions.**

**Current:** Flag lots are required to provide a 25 foot wide access way where the lot connects to the public street (the rest of the lot must meet the lot size standard by district for the buildable portion of the lot). Alternative access subdivisions are special subdivisions requiring the establishment of a lesser 20 foot right-of-way (ROW) with a 16 foot wide paved private driveway to serve up to four lots.

**Proposal:** Having identified no apparent problems with the narrower ROW areas for the alternative access subdivisions, and as a matter of consistency, it was recommended that the flagpole portion of the lot be reduced to 20 feet wide to match.

**Relevant Code Sections:** 7-11-2(j)(1)c.2.

**Pros:**

- ? May allow more lots to be subdivided
- ? Provides consistency between access methods for different types of subdivisions
- ? Benefits the smaller scale developers and the individual property owner
- ? The maximum length of the flag pole section remains unchanged

**Cons:**

- ? The narrower access way limits the ability to adjust the driveway profile in steeper grade situations - reduces design flexibility in general

In response to Mr. Hart, Mr. Glines said that this change would not affect the response time of the emergency vehicles.

**3. Issue: Offer more options for providing street trees in urban, pedestrian-oriented development areas to respond to developer preference and site conditions.**

**Current:** The landscape section for street trees (Article XI) prescribes a single option for urban street trees that specifies a structural soil vault under a sidewalk at a rate of 200 square feet per tree. After implementation of several proposals in recent years, it is clear that additional options in satisfying the street tree requirement in response to specific site conditions would be beneficial.

**Proposal:** Amend the section to reduce the dimensions of the root zone area in structural soil plantings from 200 square feet to 300 cubic feet (for example, 10'X10'X3'). A second change would be to allow the option of providing amended soil or structural soil in the tree planting area. Finally, this proposal provides additional tree planting space options:

- 1) A reinforced suspended sidewalk system around a tree grate;
- 2) A continuous planting area between trees that is a minimum of 4-feet wide;
- 3) A system of tree grates or pervious paving that allows water infiltration and oxygen exchange for tree root systems;
- 4) An on-street bulb-out which has been reviewed and approved by the traffic engineer for traffic safety.

**Relevant Code Sections:** 7-11-3(d)(3)e.

**Pros:**

- ? Reducing the root zone dimensions better accommodates typical downtown sidewalks
- ? Additional options for street trees provides flexibility to respond to site conditions such as underground utilities and narrower streets and sidewalks
- ? Tree bulb-outs can provide protection for on-street parking spaces and may be a cost savings
- ? Using a cubic foot standard instead of square feet is more appropriate to address the growth requirements for trees that include de-compaction of soil to the depth of the root run

**Cons:**

- ? Structural soil plantings have provided mixed results for street trees
- ? Field verification of cubic volume may be difficult

In response to Mr. Byers, Mr. Glines said that the lack of water is not usually the problem for street trees - it's more of a compaction problem with no air to the roots. He felt this extra soil area and the drainpipe at the bottom should help moderate that problem so as not to drown the tree with water.

In response to Ms. Weeks, Mr. Glines said that the Tree Commission has reviewed this recommendation and they like the flexibility options and the 300 cubic feet which will be better for tree health.

In response to Ms. Weeks, Mr. Glines said that the minimum opening around the tree on the surface can be reviewed on a case by case basis.

**4. Issue: The Tree Commission needs expanded authority to approve alternative compliance requests in situations where existing buildings and utilities are the cause of the constraint and the reason for the non-compliance.**

**Current Procedure:** The landscape code allows the Tree Commission to consider alternative compliance requests from the standards of the landscape ordinance with specific stipulations. In addition to the stipulations, the Tree Commission is not permitted to approve an alternative that reduces a standard by more than 50%. This provides a particular hardship for existing buildings that are required, through expansion or renovation, to bring an entire site into compliance with the ordinance.

**Proposal:** Allow the Tree Commission to consider requests for a greater than 50% reduction in required landscaping in situations with existing buildings when the existing utilities or buildings are the reason for the non-compliance. For these specific situations, the Tree Commission will consider on-site alternatives to the landscape standard to mitigate the loss of the required landscaping in addition to the existing seven (7) alternative compliance standards.

**Relevant Code Sections:** 7-11-3(e)(5)

**Pros:**

- ? Allows greater alternatives for sites that have limited options
- ? Provides some incentive for renovation and improvement of existing sites
- ? Supports the goal of adaptive reuse of structures that may be non-conforming
- ? Allows the Tree Commission greater flexibility to work with developers (owners) to provide an appropriate and effective alternative to the landscape standards

**Cons:**

- ? Some sites have minimal / low value structures that are better replaced
- ? Neighboring properties may not receive the benefits of landscape improvement

**5. Issue: Provide a new option to allow up to two signs for tenants in multi-tenant developments where the projects or developments meet standards for pedestrian oriented design with minimal building setbacks from the right of way area. For these more urban forms of development the sign allowance could be split between two different types of attached signs (window sign and a wall sign; or projecting sign and a window sign) that would better inform an individual approaching the business from multiple directions.**

**Current Procedure:** Businesses in multi-tenant buildings may place a single sign at the side of the building with the primary entrance based on the allowances provided in the ordinance.

**Proposal:** Allow up to two attached signs split between an attached sign and a window sign or other combination that in total would not exceed the square footage allowance. This would be limited to buildings that meet the standards for pedestrian oriented design that are placed a minimal distance from the right of way line (or such setbacks to create pedestrian oriented amenities).

**Relevant Code Sections:** 7-13-4(c)b.2.b.

**Pros:**

- ? Provides a new option for better meeting the identification needs of pedestrian oriented developments
- ? Encourages the types of signage that enhances the pedestrian experience of the district
- ? Does not result in additional sign area allowances

**Cons:**

- ? Increases the number of signs
- ? Opens the door to additional requests to increase allowances

- 6. Issue: As denser urban areas are redeveloped, there are often few viable options for providing for interim needs related to construction such as staging of materials and equipment, parking for construction staff and queuing areas for delivery vehicles etc. as well as displacement for existing parking for the new building or project.**

**Current Procedure:** As new districts are redeveloped in a more urban form (as encouraged by the comprehensive plan and city council goals), there are few viable options to locate temporary uses related to, or displaced by, the new construction. This issue includes construction support for development occurring on another parcel or parking displaced by construction particularly common in the Central Business District.

**Proposal:** The proposal is to allow commercial lots as a use by right subject to special requirements on an interim (but renewable) basis to be used for staging in support of other commercial development without specific site improvements commonly required of development (street trees and parking lot landscaping) using the following standards:

- ? The parcel is not zoned residential or is located within 500 feet of residentially zoned districts
- ? The temporary use is permitted for a period of two years and may be extended along with a valid open building permit by reapplying and referencing the open building permit
- ? The lot may be used in succession with subsequent building permits on other parcels but must be reestablished by permit
- ? Activities may include: parking for construction workers and stand alone parking, materials staging, delivery queuing, equipment storage
- ? Site improvements will not be required during this time except that sidewalks will be constructed and traffic issues will be reviewed
- ? Grading and other applicable permits will be applied for separately
- ? Use of the lot, as a stand alone use (aside from this interim-use provision) will be governed by applicable UDO standards

**Relevant Code Sections:** 7-16-1(b) and 7-16-1(c)

**Pros:**

- ? Facilitates redevelopment activity in commercial districts
- ? Mitigates negative impacts of construction by providing suitable areas for staging on a interim basis
- ? May provide a temporary economic driver for underdeveloped parcels

**Cons:**

- ? Nearby parcels may experience the impacts of additional construction traffic without mitigation (landscaping)

In response to Mr. Hart regarding maintenance of the other lot, Mr. Glines felt the area would be fenced off, noting that the City also has rules for general construction in the City. If there are problems that arise, staff will bring back an amendment to the Commission to consider.

**7. Issue: Provide a new option for accessory structures on non-conforming lots in residential districts as an amendment to the Uses by Right, Subject to Special requirements section (USSR).**

**Current Procedure:** It is a particular hardship to construct additions to, or provide new accessory structures on non-conforming residential lots because the use is subject to USSR standards and are only allowed on conforming lots.

**Proposal:** Allow accessory structures on non-conforming lots subject to the following changes to the USSR standards:

- ? New buildings or expansions will comply with setback standards
- ? New structures will be limited to 350 square feet
- ? Structures will meet all building code requirements

**Relevant Code Sections:** 7-16-1(c)

**Pros:**

- ? Allows homeowners to fully utilize their parcels
- ? Provides relief for what is a fairly common situation in older parts of the city or recently annexed and ETJ areas (and not previously subject to City subdivision standards)

**Cons:**

- ? May create concern from nearby residential property owners
- ? Increases the intensity of use on a property that already has some other size or dimensional disadvantage

Items regarding landscaping changes have been discussed with the Tree Commission at their meeting on Monday, May 18, 2009. This draft has also been shared with the Coalition of Asheville Neighborhoods and other interested parties.

Collectively, these amendments may encourage some additional or small scale development or re-development without increasing a need for service. Fiscal benefits include those typically associated with new development or re-development but are difficult to predict.

City staff recommends approval of the code amendments as proposed.

Vice-Chair Weeks opened the public hearing at 4:40 p.m. and when no one spoke, she then closed it at 4:40 p.m.

Based on the above findings and the analysis provided in the report, Mr. Jones moved to recommend approval of Issue 1 (Article 5: Site Plan Review: Cumulative Development Threshold). This motion was seconded by Mr. Hart and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Byers moved to recommend approval of Issue 2 (Article 11: Access Requirements for Flag Lots). This motion was seconded by Mr. Hart and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Hart moved to recommend approval of Issue 3 (Street Trees). This motion was seconded by Mr. Byers and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Jones moved to recommend approval of Issue 4 (Landscaping Alternative Compliance). This motion was seconded by Mr. Hart and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Byers moved to recommend approval of Issue 5 (Attached Signage for Tenants in Ped-Oriented Areas). This motion was seconded by Mr. Jones and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Byers moved to recommend approval of Issue 6 (Interim Parking and Construction Staging Uses). This motion was seconded by Ms. Weeks and carried unanimously on a 5-0 vote.

Based on the above findings and the analysis provided in the report, Mr. Jones moved to recommend approval of Issue 7 (Accessory Structures on Non-Conforming Lots or Lots with Non-Conforming Structures). This motion was seconded by Mr. Hart and carried unanimously on a 5-0 vote.

#### **Other Business**

Vice-Chair Weeks announced the next meeting of the Planning & Zoning Commission on June 3, 2009, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

#### **Adjournment**

At 4:47 p.m., Mr. Jones moved to adjourn the meeting. This motion was seconded by Mr. Sexton and carried unanimously by 5-0 vote.